

(40)
10-11-01
MA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES E. BROWN,
Plaintiff,

v.

COUNTY OF SCHUYLKILL, et al.,
Defendants

:
: CIVIL NO. 1:CV-00-1224
:
: (JUDGE RAMBO)
:
:

FILED
HARRISBURG, PA

OCT 10 2001

OF

MARY E. D'ANDREA, CLERK
Per MA
Deputy Clerk

Don Code

The captioned civil rights ac
by Charles Brown, an inmate cur
Institution at Albion, Pennsylvania (SC
dismiss the complaint, or, in the alternative, for summary judgment on September
11, 2001, along with a supporting brief. (Docs. 33 and 34.) Although Brown's
brief in opposition to defendants' motion to dismiss is now long overdue, he has
neither made an appropriate filing nor requested an extension of time in which to
do so. Therefore, the motion to dismiss may be deemed unopposed. M.D. Pa.
Local Rule 7.6.

S.C. § 1983 was initiated


State Correctional

Defendants filed a motion to

Generally, a dispositive motion may not be granted merely because it is unopposed. Local rules of court must be "construed and applied in a manner consistent with the Federal Rules of Civil Procedure." *Anchorage Assoc. v. Virgin Islands Board of Tax Review*, 922 F.2d 168, 174 (3d Cir. 1990) (the disposition of an unopposed motion ordinarily requires a merits analysis.) The Court of Appeals for the Third Circuit has stated, however, that Local Rule 7.6 can be applied to grant a motion to dismiss without analysis of the complaint's sufficiency "if a party fails to comply with the rule after a specific direction to comply from the court." *Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991).

Brown's failure either to file a brief in opposition to defendant's motion or otherwise to communicate with the court indicates that he may have lost interest in prosecuting this lawsuit especially in light of the fact that it appears plaintiff has failed to exhaust his administrative remedies. Consequently, the court will grant the motion without a merits analysis and dismiss the case under the authority of *Stackhouse* if plaintiff fails to oppose the motion or otherwise communicate with the court within 20 days of the date of this order.

ACCORDINGLY, THIS th 10 DAY OF OCTOBER, 2001, IT IS HEREBY ORDERED THAT the plaintiff is directed to file a brief in opposition to defendant's motion within 20 days of the date of this order or the motion will be deemed unopposed and granted without a merits analysis. *See* M.D. Pa. Local Rule 7.6; *Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991).


SYLVIA H. RAMBO
United States District Judge

Dated: October 10, 2001.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

Re: 1:00-cv-01224 Brown v. County of Schuylkill

True and correct copies of the attached were mailed by the clerk
to the following:

Charles E. Brown, EJ-6142
SCI-CH
P.O. Box 200
Camp Hill, PA 17001

Frank L. Tamulonis Jr., Esq.
P.O. Box 238
Pottsville, PA 17901

cc:

Judge	(X)	(X) Pro Se Law Clerk
Magistrate Judge	()	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail
		to: US Atty Gen () PA Atty Gen ()
		DA of County () Respondents ()
Bankruptcy Court	()	
Other _____	()	

MARY E. D'ANDREA, Clerk

DATE: October 10th, 2001

BY: 
Deputy Clerk